

ORDINANCE NO. _____

AN ORDINANCE AMENDING CITY CODE CHAPTER 10-5, ARTICLE 2, RELATED TO MAINTAINANCE OF REAL PROPERTY, TO ADD AFFIRMATIVE DEFENSES AND TO PROVIDE FOR RULEMAKING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 10-5-21 (*Duty to Maintain Property in Sanitary Condition*) of the City Code is amended to read:

§ 10-5-21 DUTY TO MAINTAIN PROPERTY IN SANITARY CONDITION.

(A) An owner, occupant, or other person in control of real property shall maintain the property in a safe, sanitary condition.

(B) A person may not allow the following to accumulate on the person's property or in the area from the person's property line to the adjacent curblin:

- (1) weeds or grasses more than 12 inches tall;
- (2) garbage, rubbish, or brush; or
- (3) filth, carrion, or any other unsightly, objectionable, or unwholesome matter.

(C) A person may not allow stagnant water that is likely to promote disease to accumulate on the person's property. A person shall drain, fill, or re-grade the person's property to remove or prevent a violation of this subsection.

(D) It is an affirmative defense to a violation of § 10-5-21 (B)(1) that the weeds or grasses in excess of 12 inches height on the property did not obstruct, impede, reduce, or impair visibility or line of sight at, of, from or for right of way, vehicles, cyclists or pedestrians, and that the over-height weeds or grasses were located at or on one or more of the following:

- (1) An area within or closely adjacent to a stream, waterway, or water quality facility;
- (2) A landscaped area arranged and maintained consistent with a plan accepted by the City which area includes native and/or adapted vegetation, weed control and periodic maintenance; or
- (3) City parkland, a greenbelt, nature preserve, or other publicly maintained open space.
- (E) The City Manager may authorize a department to adopt rules under § 1-2-1 to implement, administer, enforce, or comply with Chapter 10-5 (Miscellaneous Public Health Regulations).
- (F) Violation of Chapter 10-5 or any rule adopted under 1-2-1 pursuant to Chapter 10-5 is a violation of City Code, chargeable as a Class C misdemeanor by a fine upon conviction not to exceed \$500 unless proof of a culpable mental state is pled, in which case the fine upon conviction shall not exceed \$2,000. Proof of a culpable mental state is expressly waived when a fine of \$500 or less is sought for the offense. A person who violates this section commits a Class C misdemeanor punishable by a fine of up to \$2,000 under Section 1-1-99(B)(2) (*Offenses; General Penalty*).

PART 2. This ordinance takes effect on _____, 2012.

PASSED AND APPROVED

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_____, 2012 §

Lee Leffingwell

Mayor

APPROVED: _____ **ATTEST:**

Karen Kennard Shirley A. Gentry

Acting City Attorney City Clerk

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